

106TH CONGRESS
1ST SESSION

H. R. 1163

To amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for expenses for providing an appropriate environment on the business premises for employed mothers to breastfeed or express milk for their children.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 1999

Mrs. MALONEY of New York (for herself, Mrs. MORELLA, Mr. FRANK of Massachusetts, Mr. MORAN of Virginia, and Mr. SHAYS) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for expenses for providing an appropriate environment on the business premises for employed mothers to breastfeed or express milk for their children.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Breastfeeding Pro-
5 motion and Employers’ Tax Incentive Act”.

1 **SEC. 2. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES**
2 **FOR PROVIDING APPROPRIATE ENVIRON-**
3 **MENT ON BUSINESS PREMISES FOR EM-**
4 **PLOYED MOTHERS TO BREASTFEED OR EX-**
5 **PRESS MILK FOR THEIR CHILDREN.**

6 (a) IN GENERAL.—Subpart D of part IV of sub-
7 chapter A of chapter 1 of the Internal Revenue Code of
8 1986 (relating to business related credits) is amended by
9 adding at the end the following new section:

10 **“SEC. 45D. CREDIT FOR EMPLOYER EXPENSES INCURRED**
11 **TO FACILITATE EMPLOYED MOTHERS WHO**
12 **BREASTFEED OR EXPRESS MILK FOR THEIR**
13 **CHILDREN.**

14 “(a) IN GENERAL.—For purposes of section 38, the
15 breastfeeding promotion and support credit determined
16 under this section for the taxable year is an amount equal
17 to 50 percent of the qualified breastfeeding promotion and
18 support expenditures of the taxpayer for such taxable
19 year.

20 “(b) DOLLAR LIMITATION.—The credit allowable
21 under subsection (a) for any taxable year shall not exceed
22 the product of—

23 “(1) \$10,000, and

24 “(2) the number determined by dividing the av-
25 erage number of full-time employees of the taxpayer
26 during the preceding taxable year by 8,000.

1 “(c) QUALIFIED BREASTFEEDING PROMOTION AND
2 SUPPORT EXPENDITURE.—For purposes of this section—

3 “(1) IN GENERAL.—The term ‘qualified
4 breastfeeding promotion and support expenditure’
5 means any amount paid or incurred in connection
6 with a trade or business of the taxpayer—

7 “(A) for breast pumps and other equip-
8 ment specially designed to assist mothers who
9 are employees of the taxpayer to breastfeed or
10 express milk for their children but only if such
11 pumps and equipment meet such standards (if
12 any) prescribed by the Secretary of Health and
13 Human Services, and

14 “(B) for consultation services to the tax-
15 payer or employees of the taxpayer relating to
16 breastfeeding.

17 “(2) COSTS OF OTHER EXCLUSIVE USE PROP-
18 ERTY INCLUDED.—Such term includes any amount
19 paid or incurred for the acquisition or lease of tan-
20 gible personal property (not described in paragraph
21 (1)(A)) which is exclusively used by mothers who are
22 employees of the taxpayer to breastfeed or express
23 milk for their children unless such property is lo-
24 cated in any residence of the taxpayer or any em-
25 ployee of the taxpayer.

1 “(d) RECAPTURE OF CREDIT.—

2 “(1) IN GENERAL.—If, during any taxable year,
 3 any property for which a credit was allowed under
 4 this section is disposed of or otherwise ceases to be
 5 used by the taxpayer as required by this section,
 6 then the tax of the taxpayer under this chapter for
 7 such taxable year shall be increased by an amount
 8 equal to the recapture percentage of the aggregate
 9 decrease in the credits allowed under section 38 for
 10 all prior taxable years which would have resulted
 11 solely from reducing to zero any credit determined
 12 under this section with respect to such property. The
 13 preceding sentence shall not apply to property leased
 14 to the taxpayer.

15 “(2) RECAPTURE PERCENTAGE.—For purposes
 16 of this subsection, the recapture percentage shall be
 17 determined in accordance with the following table:

“If the recapture event occurs in:	The recapture percentage is:
Year 1	100
Year 2	60
Year 3	30
Year 4 or thereafter	0.

18 The references to years in the preceding table are
 19 references to the consecutive taxable years beginning
 20 with the taxable year in which the property is placed
 21 in service by the taxpayer as year 1.

1 “(3) CERTAIN RULES TO APPLY.—Rules similar
 2 to the rules of paragraphs (3) and (4), and subpara-
 3 graphs (B) and (C) of paragraph (5), of section
 4 50(a) shall apply for purposes of this subsection.

5 “(e) SPECIAL RULES.—For purposes of this
 6 section—

7 “(1) AGGREGATION RULES.—For purposes of
 8 subsection (b), all persons which are treated as a
 9 single employer under subsection (a) or (b) of sec-
 10 tion 52 shall be treated as a single taxpayer, and the
 11 dollar amount contained in such subsection shall be
 12 allocated among such persons under regulations pre-
 13 scribed by the Secretary.

14 “(2) REDUCTION IN BASIS.—Rules similar to
 15 the rules of paragraphs (1) and (2) of section 50(c),
 16 and section 1016(a)(19), shall apply with respect to
 17 property for which a credit is determined under this
 18 section.

19 “(3) OTHER DEDUCTIONS AND CREDITS.—No
 20 deduction or credit shall be allowed under any other
 21 provision of this chapter with respect to any expend-
 22 iture for which a credit is determined under this sec-
 23 tion.”.

24 (b) CONFORMING AMENDMENTS.—

25 (1) Section 38(b) of such Code is amended—

1 (A) by striking “plus” at the end of para-
2 graph (11),

3 (B) by striking the period at the end of
4 paragraph (12) and inserting “, plus”, and

5 (C) by adding at the end the following new
6 paragraph:

7 “(13) the breastfeeding promotion and support
8 credit determined under section 45D(a).”

9 (2) Subsection (d) of section 39 of such Code
10 (relating to carryback and carryforward of unused
11 credits) is amended by adding at the end the fol-
12 lowing new paragraph:

13 “(9) NO CARRYBACK OF SECTION 45D CREDIT
14 BEFORE JANUARY 1, 2000.—No portion of the un-
15 used business credit for any taxable year which is
16 attributable to the credit determined under section
17 45D may be carried back to a taxable year begin-
18 ning before January 1, 2000.”.

19 (3) The table of sections for subpart D of part
20 IV of subchapter A of chapter 1 of such Code is
21 amended by adding at the end the following new
22 item:

“Sec. 45D. Credit for employer expenses incurred to facilitate em-
ployed mothers who breastfeed or express milk for
their children.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1999.

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